

NORTON ROSE FULBRIGHT

April 11, 2019

By ECF

Hon. Gary L. Sharpe,
Senior U.S. District Judge
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway
Albany, New York 11207

Norton Rose Fulbright US LLP
1301 Avenue of the Americas
New York, NY 10019-6022
United States

John F. Finnegan
Partner
Direct line +1 212 408 5180
john.finnegan@nortonrosefulbright.com

Tel +1 212 408 5100
Fax +1 212 541 5369
nortonrosefulbright.com

Re: Utica Mutual Ins. Co. v. Clearwater Ins. Co.
6:13-cv-01178-GLS-TWD

Dear Judge Sharpe:

We write for two reasons. First, for the sake of good order, we advise the Court that our client, Clearwater, has no objection to Utica's April 11, 2019 motion seeking leave to file a supplemental sur-reply brief.

Second, we ask the Court to permit Clearwater to file a rejoinder, not to exceed 4 pages, on or before April 19, 2019. The briefing schedule established by the Court contemplated that Clearwater, the movant, would have the last word. There is no reason to depart from this protocol at this late date. Further, although Clearwater mentioned Judge Sannes's March 29, 2019 decision in Utica/MunichRe in Clearwater's supplemental reply brief, Clearwater did not then discuss Judge Sannes's decision. Clearwater used its reply brief (as it was supposed to do) to address arguments earlier made by Utica. Finally, until now -- until today when Utica explained why it believed the Utica/MunichRe decision was not probative -- Clearwater could not explain why Utica's position is mistaken.

Respectfully,



John F. Finnegan

JF/lS

To: All Counsel of Record (By ECF)

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